

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECOND AMENDMENT ARMS,)
(a d/b/a of R. Joseph Franzese),)
R. JOSEPH FRANZESE, individually)
and d/b/a SECOND AMENDMENT ARMS,)
ROBERT M. ZIEMAN, SR., ICARRY,)
an unincorporated Association (and d/b/a of)
Shaun Kranish), SHAUN KRANISH,)
individually and d/b/a ICARRY, and)
TONY KOLE,)
Plaintiffs,)
v.)
CITY OF CHICAGO, a municipal)
corporation, RAHM EMANUEL, in)
his official capacity as Mayor of the)
City of Chicago, GARRY McCARTHY,)
Superintendent of Police of the City of)
Chicago and SUSANA MENDOZA,)
City Clerk of the City of Chicago,)
Defendants.)
Civil Case No: 1:10-cv-4257
Hon. Robert M. Dow, Jr.
U.S. District Court Judge
Hon. Sheila M. Finnegan
U.S. Magistrate Judge

**PLAINTIFFS' RESPONSE
TO DEFENDANTS' MOTION TO
DISMISS COUNTS I, III, AND VIII-XVIII
OF PLAINTIFFS' SECOND AMENDED COMPLAINT**

NOW COMES Plaintiffs, by and through their attorney, Walter P. Maksym, Jr., and submit the following response to Defendants' Motion to Dismiss Counts I, III, AND VIII-XVIII of Plaintiffs' Second Amended Complaint ("Defendants' Motion"):

1. Plaintiffs admit paragraph 1 of Defendants' Motion
2. Plaintiffs admit that Defendants move to dismiss that portion of Count I which challenges the City's Zoning Ordinance, Count III, and Counts VIII-XVIII, but deny that those counts fail to state a claim and should be dismissed under Rule 12(b)(6), or that Count VIII should also be dismissed pursuant to Rule 12(b)(1) because Plaintiffs lack standing to bring that

claim.

3. Plaintiffs deny paragraph 3 of Defendants' Motion.

4. Plaintiffs deny paragraph 4 of Defendants' Motion.

5. Based on the forgoing and the argument and authorities set forth in Plaintiffs Memorandum in Opposition to Defendants' Memorandum of Law filed herewith and incorporated herein, Plaintiffs' Second Amended Complaint should not be dismissed.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully pray that this Court deny Defendants' Motion and grant them such other and further relief as it may deem just and proper in the premises.

Respectfully submitted,

/s/ Walter P. Maksym, Jr.
Walter P. Maksym, Jr., Plaintiffs' Attorney

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